



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/811,898	03/05/97	EBERLE III	HWE-103A

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C5M1/1118

EXAMINER	
LEV, B	
ART UNIT	PAPER NUMBER
3509	

DATE MAILED: 11/18/97

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/811,898**

Applicant(s)

**Eberle**

Examiner

**Bruce A. Lev**

Group Art Unit  
**3509**



☒ Responsive to communication(s) filed on October 22, 1997 as an Election with Amendment A

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-3, 7, 10, 11, 21, and 22 is/are pending in the applicat

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-3, 7, 10, 11, 21, and 22 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Election/Restriction*

1. Applicant's election without traverse of Group I, inclusive of Figures 1-5 and claims 1,2,3,7,10,11 in Paper No. 4 is acknowledged.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1-3,7,10,11,21,22 are rejected under 35 U.S.C. 102(e) as being anticipated by Bischof 5,529,428.

As concerns claims 1,10 Bischof discloses an anchoring biscuit device (best shown in figure 9) comprising a first flat top element having a biscuit-shaped top view configuration with sidewalls in the shape of a circular arc and opposite flat endwalls, and an imaginary center line; at least one vertical support member, inclusive of 25, attached to the underside of the top member along the imaginary center line and extending downward therefrom for a predetermined length; and attachment means, inclusive of 27,28, attached to one of the top and vertical members.

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As concerns claims 2,11 Bischof discloses the attachment means is at least one screwhole, any of members 27,28, for vertical screwing.

As concerns claims 3,21 Bischof discloses one screw hole 28 located in the center of the top element and two vertical support members (viewed as two halves, demarcated by line 29, formed as one piece) being flat, in the same plane and on opposite sides of the screwhole 28.

As concerns claims 7,22 Bischof discloses the top element and the vertical support member being unistructurally formed.

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references disclose anchoring biscuit devices having top elements, vertical support members and attachment means:

2,362,252	Ellinwood	52/483.1x
4,682,458	Sparrow	52/483.1x
5,182,891	Slocum	52/480
5,251,996	Hiller et al	403/406.1
5,480,117	Fleming, III	403/408.1x
5,660,016	Erwin et al	52/480x

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The following references disclose connecting members having top elements, at least two vertical support members and attachment means:

1,184,080	D'Arcy	403/231
2,398,603	Soderberg	403/294x
2,406,387	Lank	144/347

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Bl 

November 11, 1997

  
HARRY C. KIM  
PRIMARY EXAMINER  
GROUP 3500